

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

True the Vote, Jane Coln, Brandie §
Correro, Chad Higdon, Jennifer Higdon, §
Gene Hopkins, Frederick Lee Jenkins, §
Mary Jenkins, Tavish Kelly, Donna §
Knezevich, Joseph Knezevich, Doris Lee, §
Lauren Lynch, Norma Mackey, Roy §
Nicholson, Mark Patrick, Julie Patrick, §
Paul Patrick, David Philley, Grant §
Sowell, Sybil Tribble, Laura §
VanOverschelde, and Elaine Vechorik §
Plaintiffs, § Cause No. 3:14-cv-00532-HTW-LRA
v. §
The Honorable Delbert Hosemann, in his §
official capacity as Secretary of State for §
the State of Mississippi, The Republican §
Party of Mississippi, Copiah County, §
Mississippi Election Commission, Hinds §
County, Mississippi Election §
Commission, Jefferson Davis County, §
Mississippi Election Commission, §
Lauderdale County, Mississippi Election §
Commission, Leake County, Mississippi §
Election Commission, Madison County, §
Mississippi Election Commission, Rankin §
County, Mississippi Election §
Commission, Simpson County, §
Mississippi Election Commission, and §
Yazoo County, Mississippi Election §
Commission §
Defendants. §

**AMENDED AGREED MOTION TO DISMISS
BY PLAINTIFFS AND CERTAIN DEFENDANTS**

Plaintiffs True the Vote, et. al., the Secretary of State, and all county election commissions which have appeared except Copiah County, Mississippi Election Commission (collectively the “Parties”) hereby jointly move this Court to dismiss the

above-entitled and numbered cause with prejudice to the re-filing thereof and would show the Court as follows:

1. Pursuant to Federal Rule of Civil Procedure 41(a)(2) a plaintiff may move the court for voluntary dismissal of the matter “on terms that the court considers proper.” *Id.* There are no counterclaims by Defendants pending, therefore the only live cause of action is that pled by Plaintiffs. Though Rule 41(a)(2) does not require conference with defendants prior to filing a motion for voluntary dismissal, Plaintiffs have made efforts to obtain agreement. The great majority of the defendants are agreed to dismissal.

2. The Parties respectfully request that the above-entitled and numbered cause be dismissed with prejudice to the re-filing of all claims asserted therein or which should have or which could have been asserted therein, each party bearing its own costs.

3. Yazoo County, Mississippi Election Commission has not appeared in the matter by any filing or at hearing. Nonetheless, a dismissal of the action should not adversely affect Yazoo County, Mississippi Election Commission.

4. Copiah County, Mississippi Election Commission is still considering agreement.

5. The Republican Party of Mississippi has indicated it seeks a ruling on its Motion for Attorney Fees, Expenses and Costs (Doc. 150) prior to dismissal.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, the Mississippi Secretary of State Delbert Hosemann (in his official capacity), and certain county election commission defendants request that the Court dismiss the above-entitled cause with prejudice, that all costs of court, expenses, and attorneys’ fees be adjudged against the

party incurring same, and that the Court enter the order submitted herewith, or an order consistent with this motion.

Respectfully submitted,

/s/ L. Eades Hogue

Joseph M. Nixon
Texas State Bar No. 15244800
jnixon@bmpllp.com
Kristen W. McDanald
Texas State Bar No. 24066280
kmcdanald@bmpllp.com
Kelly H. Leonard
Texas State Bar No. 24078703
kleonard@bmpllp.com
BEIRNE, MAYNARD & PARSONS, LLP
1300 Post Oak Blvd, Suite 2500
Houston, Texas 77056
(713) 623-0887 Tel.
(713) 960-1527 Fax
(*Pro Hac Vice*)

L. Eades Hogue
Mississippi State Bar No. 2498
Louisiana State Bar No. 1960
ehogue@bmpllp.com
BEIRNE, MAYNARD & PARSONS, LLP
Pan-American Life Center
601 Poydras Street
Suite 2200
New Orleans, LA 70130
(504) 586-1241 Tel.
(504) 584-9142 Fax
Lead Counsel

James E. "Trey" Trainor, III.
Texas State Bar No. 24042052
ttrainor@bmpllp.com
BEIRNE, MAYNARD & PARSONS, LLP
401 W. 15th Street, Suite 845
Austin, TX 78701
(512) 623-6700 Tel.
(512) 623-6701 Fax
(*Pro Hac Vice*)

Counsel for Plaintiffs

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with counsel of record throughout the week of September 22-September 30, 2014 via telephone and e-mail and the foregoing motion is a true and correct reflection of the positions of the parties who have appeared in this matter. Since filing the original motion to dismiss, Lauderdale County has indicated their agreement, and Copiah County indicated that they were still undecided, but would let me know Monday, October 6, 2014. I was mistaken in previously stating we had reached agreement, and do apologize to the court for any confusion. Yazoo County, Mississippi Election Commission has not appeared or responded to any filing, therefore conference on this matter is unnecessary.

/s/ Joseph M. Nixon

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2014, this document has been filed and served on all parties who have appeared with the Court's e-file system in accordance with Federal Rules of Civil Procedure and the Court's Local Civil Rules. A copy has been mailed via U.S. mail to the Yazoo County, Mississippi Election Commission.

/s/ L. Eades Hogue